

The Honorable Richard A. Jones

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,
Plaintiff,

v.

EPHRAIM ROSENBERG and
HADIS NUHANOVIC,
Defendant.

NO. CR20-151RAJ

***STIPULATED MOTION TO
CONTINUE TRIAL DATE AND
PRETRIAL MOTIONS DEADLINE***

Noting date: July 14, 2022

The United States of America, by and through undersigned counsel, and the defendants Ephraim Rosenberg and Hadis Nuhanovic, by and through their attorneys, respectively, hereby file this *stipulated* motion for a continuance of the trial date and the pretrial motions deadline.

Trial in this matter currently is scheduled for October 24, 2022. Pretrial motions are due no later than July 21, 2022. For the reasons stated below, the parties stipulate and jointly request a continuance of the trial date until at least February 2023, with preference for February 21, 2023, or thereafter as the court has availability. The parties likewise

request that the pretrial motions deadline be extended to a date at least four (4) months prior to the trial date, as described below.¹

I. DISCUSSION

The aforementioned parties to this joint motion stipulate and agree as follows:

1. On September 16, 2020, a Grand Jury sitting in this District returned a nine-count Indictment charging the defendants² with counts of Conspiracy to Commit Violate the Travel Act and Computer Fraud and Abuse Act, in violation of 18 U.S.C. § 371, Conspiracy to Commit Wire Fraud, in violation of 18 U.S.C. § 1349, and Wire Fraud, in violation of 18 U.S.C. § 1343.

2. As set forth in records on file, incorporated herein, it is alleged that the defendants participated in a fraud and bribery scheme targeting the Amazon Marketplace and its users. The alleged conduct includes the payment of commercial bribes to Amazon employees and/or contractors in order to gain unauthorized access to Amazon's computer network, obtain beneficial outcomes for certain third-party seller accounts and product listings, overcome barriers to the sale of restricted items (e.g., hazardous items and regulated substances), and misappropriate internal Amazon data, which included information about the operation of the Marketplace, about particular seller accounts, and Amazon employees and customers.

3. On October 15 and 16, 2020, the above-captioned defendants made their initial appearances in this District and were arraigned on the charges. They entered pleas of not guilty on all counts and were released subject to a bond pending trial. Defendant Ephraim Rosenberg resides in New York and has retained counsel. Defendant Hadis Nuhanovic resides in Georgia and has retained counsel.

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¹ The parties agree to confer regarding a more detailed briefing schedule, as needed or upon request.

² Co-defendant Rohit Kadimisetty entered a guilty plea pursuant to a plea agreement and has been sentenced. Co-defendants Joseph Nilsen and Kristen Leccese entered guilty pleas pursuant to plea agreements and are awaiting sentencing. Co-defendant Nishad Kunju, a foreign national also charged in the Indictment, has not appeared in this District, and remains a fugitive on such charges.

1 4. Pursuant to two stipulated motions, trial was scheduled for January 2022
2 and then continued again to October 2022.

3 5. The parties, by and through counsel, stipulate to and jointly request a
4 continuance of the trial date and motions deadline as set forth herein. For multiple
5 reasons, including, but not limited to, the nature of the charges and prosecution, the
6 potential consequences, the possible questions of law and fact, the size, scope, and
7 technical nature of discovery, and the unusual complexity of the case, as well as the
8 Coronavirus Disease 2019 (COVID-19), and health-related considerations, this
9 continuance and extension of the pretrial motions deadline are necessary and warranted.

10 6. This case involves an immense amount of discovery, well beyond the
11 typical matter. The government has produced over 200,000 pages of reports, financial
12 records, warrants, and other materials, and it also has produced large quantities of digital
13 evidence. The investigation involved, among other things, searches of more than 50 email
14 and cloud storage accounts held at various online providers and the seizure of more than
15 75 electronic devices, such as computers, tablets, phones, and storage devices. In total,
16 the government has processed and continues to process numerous terabytes of electronic
17 data in this matter. Given the large size, discovery productions have been conducted on a
18 rolling basis and conveyed to counsel for each defendant on external hard drives. The
19 United States has provided a substantial amount of data and additional productions are
20 forthcoming.

21 7. Moreover, the discovery contains certain personal information and sensitive
22 material beyond the typical matter. For instance, the electronic data contains a large
23 amount of protected information of alleged victims, personally identifiable information
24 (PII) of individuals, and internal and proprietary company records and information.
25 Accordingly, the parties required additional time to develop an appropriate discovery
26 plan and entered into a protective order governing the handling and storage of “Protected
27 Material,” which the Court approved. That protective order places limitations on the
28 review and dissemination of “Protected Material,” which, particularly given the concerns

1 related to COVID-19, necessitates additional time for counsel and the defendants to
2 review discovery and assess the case accordingly.

3 8. The government also has sought by an official request evidence located in a
4 foreign country. The government has received a response to that request, and the time
5 taken by such requests warrant consideration under 18 U.S.C. § 3161(h)(8).

6 9. Undersigned defense counsel require additional time to review the evidence
7 with their clients, to conduct necessary follow-up investigations, and to retain and consult
8 with experts, in order to provide effective representation. Further, defense counsel and
9 the defendants require additional time to conduct factual and legal inquiries and to
10 determine and consider viable strategies, to include, if appropriate, a possible negotiated
11 resolution.

12 10. The parties further agree that this case involves serious allegations and
13 charges, set forth above. For instance, the maximum penalty for wire fraud includes a
14 term of imprisonment of up to 20 years.

15 11. A trial in this case likely would span multiple weeks and include multiple
16 hundreds of exhibits and the testimony of dozens of fact and expert witnesses. The
17 United States anticipates the prosecution evidence would include representatives of
18 Amazon and various online service providers, foreign witnesses, and expert testimony
19 regarding multiple topics, including forensic analyses of computer and other electronic
20 evidence, among other things. After reviewing discovery and conducting its own
21 investigation, the defense likewise may present similar evidence at a trial. Further, the
22 parties agree that such a trial, particularly with multiple defendants, would present
23 challenges given the on-going considerations related to COVID-19.

24 12. Given the circumstances, including the charges, the complexity of the case,
25 the technical nature and size of discovery, the foreseeable trial evidence, and the potential
26 consequences of conviction, a continuance is warranted and necessary in this case.

27 13. After consultation regarding respective conflicts, undersigned counsel and
28 the parties are all available for trial in Seattle in February 2023, and dates thereafter.

1 The parties further ask that the deadline to file pretrial motions be reset to a date at
2 least four (4) months prior to the rescheduled trial date. The parties further request and
3 propose that any pretrial motion be noted for consideration on the third Friday thereafter,
4 with responses thereto due no later than fourteen (14) days after filing of motions.

5 DATED this 14th day of July, 2022.

6 Respectfully submitted,

7 NICHOLAS W. BROWN
8 United States Attorney

9 *s/ Steven Masada*

10 *s/ Nicholas Manheim*

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21 So Stipulated:

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